



AIA
Oregon

TO: House Business and Labor Committee
FROM: Curt Wilson, Legislative Affairs Committee Chair
DATE: February 6, 2018
RE: Opposition to HB 4127

HB 4127 makes a large public policy change during a short legislative session and without collaboration by those impacted.

AIA learned of this language in December when we were asked to come to a meeting. The gathering was not a brainstorm of how to improve QBS, it was delivery of a completed draft encompassing the language proponents would be seeking. They envision an alternative route to QBS - not the numbers changes usually requested - this was a completely new concept for us to respond to. However, we did in fact respond quickly and provide input and possible improvements, but all were ignored. A second meeting occurred, but only for the purpose of sharing more language supporters would be including in amendments. Again, not one of our changes was included in the bill before you.

Should the procurement process perhaps be modernized? Yes. Should it be done in this manner? No.

The American Institute of Architects looks forward to a collaborative conversation with local governments and bringing you language in 2019.

Why QBS?

Qualifications Based Selection (QBS) of architectural and engineering services was established by the Federal Government via the Brooks Act in 1972. In 1997, the state of Oregon followed the lead of the federal government and began using qualifications-based selection to procure the services of design professionals. In 2001, 2005, and 2011 this legislative body made changes to ORS 279C extending QBS to apply to all local and special government projects, including schools, within certain price parameters. QBS has been so successful at the federal level that it has been adopted by 44 states and hundreds of localities throughout the country. The QBS process is widely endorsed by the American Bar Association, the American Public Works Association, the Associated General Contractors and all major design professional associations.

Under QBS procurement procedures, price quotations are not a consideration in the first phase of the selection process. Instead, after public solicitation for architect and engineer (A/E) services and submission of proposals, evaluations are made based on selection committee criteria, and a short-list is developed of those to be interviewed. After interviews with the firms, the selection committee ranks the most qualified firms and then begins negotiations on price with the top ranked firm. During these conversations, project owners and professional fully negotiate scope, concepts, design options, innovations and costs together in a comprehensive way.

Fact is, materials and labor can be bid, but ideas and collaboration are more difficult. When an architect or engineer enters a project, the scope of the work has not been entirely defined; therefore, there are insufficient parameters on which to base a cost proposal. Price bidding only works when there is clearly a specified project scope, such as in the construction phase.

QBS creates a relationship that allows the owner and design professional firm to work together to develop the project scope and determine alternative materials and designs that will minimize long-term operational and maintenance costs. Cheap design can be an expensive mistake. The lowest bid is not the best choice when selecting professionals to plan and design complex public projects. QBS safeguards public safety and public funding by enabling agencies to acquire the services of the most qualified firm for a particular project at a negotiated, reasonable cost.

An added benefit from AIA's perspective is that QBS allows small firms to compete for contracts based on quality of services provided on equal footing with larger firms. Small, women and minority-owned firms are able to showcase their unique capabilities without being outbid and collaborate with project owners promoting technical innovation.

Finally, contracting agencies already estimate design costs within project budgets using norms set in the built environment, so no one is in the dark about the range or what will be the approximate final fee for A/E services. There are no additional costs imposed on the contracting agency with the use of QBS – just a required order of discussions. The QBS process itself does not raise the budget for a project. Time for the selection process may be longer, but as a result, the final project will not have the delays often associated with low-bid procurement of professionals services, potentially reducing overall project time.